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October 15, 2013

VIA EMAIL ONLY: Malone.George@EPA.gov

Mr. George Malone, Assistant Regional Counsel
Office of Regional Counsel (6RC-S)
U.S. EPA Region 6
1445 Ross Avenue
Dallas, Texas 75202-2733

Re: Letter dated September 25, 2013 from Ben Banipal of EPA Region 6 to Highland Industrial Park

Dear Mr. Malone:

I represent Highland Industrial Park, Inc. (Highland). Highland has provided me with a letter dated September 25, 2013, that purports to be an information request under section 104(e) of CERCLA. I left you a voice mail message shortly after receiving this letter but I assume you have been furloughed due to events in Washington D.C.

Highland owns property that consists of approximately 18,000 acres of land and five million six hundred (5,600,000) square feet of building space. Highland leases buildings to various companies who are engaged in lawful activities, including the manufacture and storage of various explosives.

Austin Powder Company (Austin) leases approximately 295,000 square feet from Highland. Highland's relationship with Austin as a tenant of the Highland Industrial Park goes back several decades. Highland has no involvement in Austin's business beyond the landlord/tenant relationship.

The buildings Austin leases from Highland include explosive storage magazines that are approximately 2,100 square feet each. We understand Austin is currently utilizing approximately thirty (30) of the storage magazines it leases from Highland to store M6 propellant for Explo Systems, Inc. (Explo) under an agreement between Austin and Explo.

Highland is not a party to any agreement between Austin and Explo. Highland has no relationship with Explo. Explo does not lease any buildings from Highland. Highland is not storing propellant for Explo.

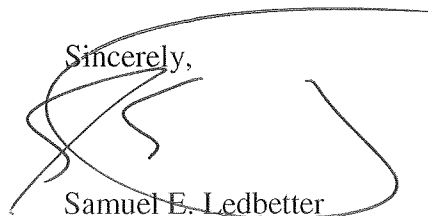
Under Arkansas law, a lease gives the lessee exclusive possession of the leased premises against the entire world, including the owner of the leased premises. *Harbottle v. Central Coal & Coke Co.*, 134 Ark. 254, 203 S.W. 1044 (1918). So long as Austin is in compliance with the terms and conditions of its leases with Highland, Highland has no right to enter the premises it leases to Austin. In addition, Highland has no right to attempt to control or intervene in the activities or decisions of its tenants. Similarly, Highland, as Austin's landlord, may not dictate additional terms or conditions not contained in the lease agreements between Highland and Austin. To Highland's knowledge, Austin is not breaching its leases with Highland.

EPA's letter to Highland (as well as a similar letter EPA sent to Austin) suggests that Highland is either storing M6 propellant for Explo or that Highland has some involvement in Austin's business beyond being its landlord. Neither is true. Again, Highland has no relationship or agreement with Explo and Highland's relationship with Austin is one of landlord/tenant.

Accordingly, Highland respectfully requests that EPA either withdraw its information request to Highland or else narrow it to obtaining copies of the leases that form the basis for Austin's right to exclusive possession to the buildings Austin leases from Highland.

Please contact me at your earliest convenience to discuss this matter. Thank you.

Sincerely,



Samuel E. Ledbetter

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cc: Gene Hill